

Appl. No. 09/730,612  
Amdt. dated June 30, 2009  
Amendment under 37 CFR 1.116 Expedited Procedure  
Examining Group 3625

PATENT

**Amendment(s) to the Drawings:**

The attached sheet of drawings includes changes to Figs. 1-5. These sheets, which include Figs. 1-5 replace the original sheets including Figs. 1-5.

Attachment: Replacement Sheet

## **REMARKS/ARGUMENTS**

This paper is responsive to the Office Action dated March 30, 2009. Claims 1-20 were pending before submission of this paper. Claims 1-20 stand rejected. Claims 10-19 have been amended. These amendments to claims 10-19 are supported by the specification as filed and do not constitute new matter. Claim 21 is new. Reconsideration of the claims in view of the following remarks is respectfully requested.

### **I. DRAWINGS**

Submitted herewith are replacement sheets for Figures 1-5. The new drawings merely replace hand-written portions and otherwise reproduce the original drawings to provide increased clarity. Therefore, the new drawings do not introduce new matter.

### **II. CLAIM REJECTIONS UNDER 35 USC § 103**

Claims 1, 3, 6, 7, 8, 9, 10, 11, 13, 16, 17, 18, 19 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Covisint ( a collection of articles Covisint 1-3) in view of Oracle (a collection of articles Oracle 1-7, in view of Kaplan (US5,701,460). Claims 2 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Covisint in view of Oracle, in view of Kaplan (US5,701,460), and further in view of Admitted Prior Art (APA) (US PG Pub 20020069120 to Stephens). Claims 4, 5, 14 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Covisint in view of Oracle, in view of Kaplan (US5,701,460) and further in view of Official Notice. Applicants respectfully traverse these rejections.

#### **A. 37 C.F.R. § 1.131 Declaration**

A declaration under 35 U.S.C. § 1.131 (hereinafter Declaration), executed by each of the inventors, is filed herewith. The Declaration establishes the date of the claimed invention

before the earliest publication date of the Covisint articles. Consequently, Applicants respectfully submit that the Covisint articles do not qualify as prior art under 102(a) and cannot be used in a rejection under 35 U.S.C. § 103. Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. § 103 be withdrawn. The Declaration is not a concession on the merits of the rejections, but has been filed solely to expedite prosecution. Applicants also reserve the right to supplement the Declaration at a later time for the instant Application, for a related application, and/or for another proceeding.

Furthermore, even assuming *arguendo* that the Covisint articles are prior art, the pending claims are patentable over Oracle, Covisint, and Kaplan for at least the following reasons.

**B. Claims 1-9**

Claim 1 recites:

1. A multiple exchange instance, comprising:  
a plurality of exchanges; and  
a common instance for implementing the exchanges, the exchanges sharing a set of common components and each exchange having a respective view having respective unique components, wherein the common instance comprises a database divided into a plurality of sub-schemas, and wherein each of the exchanges is singularly associated with and implemented within a respective one of the plurality of sub-schemas providing a respective partial view of the common instance, and wherein each of the exchanges is allocated to a different merchant.

In addition to the foregoing, for reasons substantially similar to those articulated in Applicants' Amendment filed February 3, 2009 (February Amendment), Applicants respectfully submits that the cited Oracle and Covisint references do not render claims 1-9 and 20 obvious. Specifically, at least for reasons articulated in the February Amendment, because the references, either individually or in combination, do not put the public in possession of applicants' invention as defined in the claims, the articles do not enable the individual teachings for which they are cited. Moreover, even assuming *arguendo* the individual teachings are enabled, because the references do not enable a combination of the teachings for which the references are cited.

In the Response to Arguments section of the Office Action, the Office Action asserts that the combination of Covisint, Oracle, and Kaplan references enable the claimed invention because:

[T]he combination of Covisint, Oracle and Kaplan clearly describe the broadly encompassing features of the instant invention. One skilled in [art at the time of the invention] the would understand that computers would be necessary to execute the applications that define the backbone of the common exchange used for provide to a world wide automotive supply chain a broad range of services including catalog services, auction services, sourcing services, financial services...payment and logistics (Covisint2). Clearly the global exchange described in the prior art, including applications such as Release 11i , would not be broken down to their base functionality and then implemented without the use of its intended computerized functionality on the internet.

Thus, it appears that the Office Action's position is that one with ordinary skill in the art would be able to practice Applicants' invention because, even though the references do not themselves describe how to perform the broadly recited functions, they can use computers to perform the functions. Applicants respectfully disagree.

When rejecting the claims based on a combination of prior art elements according to known methods to yield predictable results, as the Office Action must articulate "that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art." M.P.E.P. § 2143(A); see *KSR International Co. v. Teleflex, Inc.*, 550 U.S.398, 82 USPQ 2d 1385, 1395-97 (2007). In the present instance, the Office Action merely asserts that the fact that the cited Oracle, Covisint, and Kaplan references do not describe how to practice the broadly mentioned features is remedied because one with ordinary skill in the art can use a computer to perform the features. Applicants respectfully submit that this rationale is insufficient for a rejection under 35 U.S.C. § 103. Specifically, the cited Oracle, Covisint, and Kaplan references do not, individually or collectively, teach how one with ordinary skill in the art would use a computer to perform the broadly mentioned functions or otherwise comprise evidence that one

with ordinary skill in the art would be able to use a computer to perform the broadly mentioned features. Moreover, the Oracle, Covisint, and Kaplan references do not teach how one with ordinary skill in the art would use a computer to practice a combination of broadly mentioned features from different references.

As a specific example, in connection with claim 1, the Office Action at page 3 cites to Covisint for “a common instance for implementing [a plurality of] exchanges” and to Oracle2 for “each exchange having a respective view having respective unique components.” The Office Action on page 3 asserts that it would be obvious to combine the teachings of Oracle2 and Covisint to achieve a plurality of exchanges where each exchange has a respective view having respective unique components.

Oracle2 is an article published by PR Newswire describing Oracle’s announcement that it is releasing Oracle Applications Release 11i. While it is unclear to which portion of the article the Office Action is referring, it appears to refer to the section on the second page entitled “New Look and Feel.” This section, however, only vaguely describes that “A new CRM Customer Information portal gives a single customizable homepage to view their account information including service requests, invoices, order history and support.” Even assuming *arguendo* that the aforementioned element of claim 1 reads on this vaguely recited feature, there is no teaching or description in this section, or anywhere else in the Oracle articles, about how the feature identified in the article is enabled. Further, neither Covisint nor Oracle teaches how multiple exchanges allegedly taught by Covisint would be combined, using a computer or otherwise, with teachings of Oracle 2 to form a plurality of exchanges where each exchange has a respective view having respective unique components., as recited in claim 1. Thus, the Office Action has not presented any evidence that one with ordinary skill in the art would be able to, taking the broad features mentioned in Covisint and Oracle, practice Applicants’ invention as recited in claims 1-9 and 20. In other words, the Office Action has not presented any evidence that practicing a combination of the combined features mentioned in the Covisint and Oracle articles would be within the skill level of one with ordinary skill in the art.

Therefore, Applicants respectfully submit that claim 1 and claims 2-9, which depend from claim 1, are allowable over 35 U.S.C. § for at least this reason and for reasons outlined in the February Amendment.

**C. Claims 10-17**

Specifically applied to rejections of claims based on a combination of prior art elements according to known methods to yield predictable results—which is the case here, as articulated on page 4 of the Office Action—the Office Action must articulate four factual findings. M.P.E.P. § 2143(A). First, there must be “a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.” *Id.* Second, there must be “a finding that one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element merely performs the same function as it does separately.” *Id.* Third, there must be “a finding that one of ordinary skill in the art would have recognized that the results of the combination were predictable.” *Id.* Fourth, there must be articulation of “whatever additional findings based on the Graham factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.” *Id.*

As amended, claim 10 recites:

10. A computer-readable storage medium having stored thereon instructions for causing at least one processor to perform a method for a multiple exchange instance implemented on a server computer system utilizing said at least one processor, the method comprising the steps of:
- a) defining a common instance using a common schema that defines a database;
  - b) slicing the common instance into a plurality of exchanges, wherein the common instance is divided into a plurality of sub-schemas, and wherein each of the exchanges is singularly associated with and is implemented within a respective one of the plurality of sub-schemas providing a respective partial view of the common instance and wherein each of the exchanges is allocated to a different merchant;
  - c) implementing a common support architecture for the exchanges;

- d) implementing efficient communication between a first exchange of the exchanges and a second exchange of the exchanges using the common support architecture; and
- e) presenting a custom view of the exchanges to respective operators of the exchanges.

In the present application, the Office Action rejects claim 10 concurrently with its rejection of claim 1 on pages 3-5 without addressing the specific elements of claim 10.

Therefore, it appears that the Office Action appears to reject elements of claim 1 and similar elements of claim 10 using the same rationale. Accordingly, Applicants respectfully submit that claims 10-19 are allowable at least for reasons outlined above in connection with claims 1-9.

In addition, the Response to Arguments section on page 10, the Office Action cites to Covisint 1, Covisint 2, Covisint 3, and Oracle 5 for “implementing a common support architecture” and “implementing efficient communication between exchanges using the common support architecture.” Applicants respectfully submit that, for reasons similar to those outlined above in connection with claim 1, Covisint 1, Covisint 2, Covisint 3, and Oracle 5 do not enable “implementing a common support architecture” and “implementing efficient communication between exchanges using the common support architecture” because the references, individually or in combination, do not enable the teachings for which they are cited. For example, as noted by the Office Action on page 10, Covisint 2 and Covisint 3 include the statements “sharing a common technology platform” and “the goal is to become the supply backbone of the entire automotive industry.” In addition, Covisint 3 describes “just consider how much more efficient the process becomes via the new exchange on the internet” and “everyone in the chain will have the capability to communicate information in real-time” Oracle 5 includes a statement that “oracle exchange will be the backbone for the AutoXchange online automotive supply network.”

Applicants respectfully note that these statements, either individually or in combination, do not enable one with ordinary skill in the art to practice the aforementioned elements of claim 10 by themselves, let alone in connection with the other elements recited in claim 10. In particular, these statements do not provide any instruction, teaching, or other

indication of how the elements, as recited in claim 10, may be practiced by one with ordinary skill in the art, with or without a computer. As with the statements from Oracle and Covisint discussed above in connection with claim 1, these statements are insufficient because they, at most, broadly mention features of a product without teaching how these features are implemented.

**D. Claim 20**

Applicants respectfully submit that claim 20 recites features similar to those discussed above in connection with claims 1-9 and, therefore, is allowable at least for reasons similar to those discussed above in connection with claims 1-9. For example, claim 20 recites “a plurality of exchanges” and “a common database for implementing the exchanges within a common schema.” Claim 20 also recites that the exchanges share “a set of common components and each exchange having a respective view having respective unique components.” For reasons similar to those discussed above, Covisint, Oracle, and Kaplan do not, individually or in combination, render these elements of claim 20 obvious.

**E. Official Notice**

“Official notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances.” M.P.E.P. § 2144.03(A). While “official notice” may be relied on, these circumstances should be rare when an application is under final rejection. *Id.* “Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known” such as facts that are “capable of such instant and unquestionable demonstration as to defy dispute.” *Id.* Accordingly, “it would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” *Id.* (emphasis in original).

Claim 4, in connection with claim 3 from which claim 4 depends, recites a multiple exchange instance wherein the multiple exchanges each have a respective operator, and



wherein the multiple exchange instance allows each operator to perform input/output using the common components to perform the input/output for each of the respective multiple exchanges. Claim 4 specifically specifies that “the input/output comprises an authentication operation for each of the exchanges.” Similarly, claim 14 specifies with connection to claims 10 and 13 that “the input/output comprises an authentication operation for each of the exchanges.” The Office Action on page 8 takes Official Notice that “it was old and well known in the art at the time of the invention to permit input and output to an online catalog.” Applicants respectfully submit that, in the present case, the facts of which Official Notice have been taken are not capable of instant and unquestionable demonstration as being well-known. For example, as noted in the specification at page 4, line 15 through page 5, line 24, prior art methods for pushing catalog content required inefficient duplicate communication, such as registering and/or authenticating identity at least once for each exchange. Applicants invention, as recited in claims 1, 3 and 4 solves this problem. Thus, Applicants respectfully submit that using common components for input/output that comprises an authentication operation for each of the exchanges is not old and well-known in the art.

Claims 5 and 15 both recite that “the common input/output [of claims 3 and 13, respectively] comprises a catalog content input operation for each of the exchanges.” As above, when read in connection with claims 3 and 13 from which claims 5 and 15 depend, the input/output uses the common components. The Office Action on page 8 takes Official Notice that “it was old and well-known in the art at the time of the invention to permit input and output to an online catalog.” Applicants respectfully submit that, in the present case, the facts of which Official Notice have been taken are not capable of instant and unquestionable demonstration as being well-known. For example, as noted in Applicants’ specification at page 4, line 15 through page 5, line 24, prior art methods for pushing catalog content required inefficient duplicate communication. Applicants invention, as recited in claims 5 and 15, solves this problem because it “eliminates the redundancy and duplicate components involved in implementing multiple exchanges.” *See* Applicants’ Specification, page 5, lines 19-24.

Consequently, because the aforementioned elements of claims 4, 5, 14, and 15 are not capable of instant and unquestionable demonstration as being well-known, Applicants respectfully request that any future Actions maintaining Official Notice provide supporting documentation pursuant to MPEP 2144.03(C).

**F. Admitted Prior Art**

With respect to claims 2 and 12 (which depend from claims 1 and 10, discussed above, respectively), the Office Action on page 5 asserts that Applicants admit that facilitating communication between exchanges is old and well-known in the art. For this admission, the Office Action cites to paragraph [0008] of the published version of the present application. Applicants submit that the Office Action misinterprets paragraph [0008]. Even assuming hypothetically for the sake of argument that this paragraph admits that facilitating communication between exchanges is old and well-known, Applicants respectfully point out that claim 2 additionally recites that the exchanges are implemented within a common instance. Applicants submit that paragraph [0008] does not admit that facilitating communication between exchanges *implemented within a common instance* is old and well-known. On the contrary, paragraph [0008] recites that “The separate instances per e-commerce site 101-104 leads to an additional problem regarding communication between the sites.” Further, “The separate exchanges each running within their own instance cannot easily communicate amongst each other” and “communication between multiple exchanges when each exchange is running as its own instance is not easily implemented.” The remainder of the paragraph explains a known way (XML) for overcoming the aforementioned difficulties in connection with exchanges implemented in separate instances. In other words, paragraph [0008] is unrelated to facilitating communication between exchanges implemented *within a common instance*, but entirely dedicated to facilitating communication between exchanges implemented *in separate instances*.

The remaining rationale given in the rejection of claims 2 and 12 relies on citation to Covisint3 and, therefore, are insufficient at least for reasons similar to those discussed above.

In light of the above, Applicants respectfully submit that claim 2 is allowable at least for these additional reasons.

**G. New Claim 21**

New claim 21 has been added. Claim 21, which depends from independent claim 20, recites that “the multiple exchange instance provides registration for a group of exchanges simultaneously.” This element has not been addressed by the USPTO in another claim and Applicants respectfully submit that this element is not taught, either individually or in combination, by any of the Covisint articles, the Oracle articles, or the Kaplan reference. Accordingly, in addition to being allowable for depending on an allowable claim, Applicants respectfully submit that claim 21 is allowable for at least this additional reason.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 206-467-9600.

Respectfully submitted,

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# **APPENDIX**